

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MARK L. RIGGINS,)
vs.)
Plaintiff,)
vs.) NO. CIV-06-0761-HE
MICHAEL J. ASTRUE,)
Commissioner of the Social)
Security Administration,)
Defendant.)

ORDER

Plaintiff Mark Riggins instituted this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of the final decision of the Commissioner of the Social Security Administration denying his application for supplemental security income payments. Pursuant to 28 U.S.C. § 636(b)(1)(B), this matter was referred to Magistrate Judge Valerie K. Couch, who recommended that the decision of the Commissioner be reversed and the case remanded for an immediate award of benefits. Alternatively, Judge Couch recommended that the decision be reversed and the case remanded for further administrative proceedings.

Defendant has failed to object to the Report and Recommendation and, therefore, has waived his right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). *See* 28 U.S.C. § 636(b)(1); LCvR 72.1(a). The court has also considered the merits of the action and substantially concurs with the Magistrate Judge's analysis.

Accordingly, the court **ADOPTS** the Report and Recommendation, **REVERSES** the Commissioner's decision, and **REMANDS** the case for an immediate award of benefits consistent with this opinion.

IT IS SO ORDERED.

Dated this 6th day of August, 2007.



JOE HEATON
UNITED STATES DISTRICT JUDGE